IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10420 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SURAT SILK LABOUR UNION

Versus

DISTRICT DEVELOPMENT OFFICER

Appearance:

1. Special Civil Application No. 10420 of 2003

MR KR KOSHTI for Petitioner No. 1

MS SEJAL K MANDAVIA for Respondent No. 1

NANAVATI & NANAVATI for Respondent No. 2-2/2

CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 16/01/2004

ORAL JUDGEMENT

Rule. With the consent of learned counsel for

parties matter is taken up for final hearing today.

2. The present petition is preferred by the petitioner for appropriate direction to hold that the respondent No.1 has failed to recover the amount mentioned in the recovery certificate, dated 11.3.98 and for further direction to the respondent No.1 to recover the said amount of Rs.13,77,697/- as the arrears of land revenue within stipulated time limit of 30 days.

3. Having heard Mr.Koshti, Ld.Advocate for the petitioner, Ms.Mandavia for the respondent No.1 and Mr.Trivedi for M/s Nanavaty and Nanavaty for respondent No.2, it appears there is no dispute on the point that the recovery certificate has been issued for recovery of amount of Rs.13,73,697/-. However, Mr.Trivedi appearing for the respondent No.2 submitted that the award passed by the labour court for which recovery certificate issued was exparte and the respondent has moved the court setting aside the exparte order, but he submitted that uptil now no stay order has been granted by the court against the execution of the exparte order for which the recovery certificate is issued.

4. There is also no dispute on the point that the recovery certificate is to be executed by the Dist.Development Officer-the respondent No.1. However, Mrs.Mandavia for the respondent No.1 submitted that the office of the DDO has taken steps for recovery of the amount as per the recovery certificate and it is transpired in the proceedings of execution of recovery certificate that such persons are not holding any property and statement is recorded to the extent that there is no such firm in existence. Mr.Koshti, Ld.Advocate for the petitioner submitted that no proper steps are taken by the DDO and the DDO's office. It has been submitted that as such the persons are available and they have property from which recovery can be effected and Mr.Koshti also submitted that the petitioner is ready to furnish the details to the office of the DDO to enable the DDO to recover the amount from such persons and from their properties.

5. In view of the above, it appears that the DDO has taken steps and he is further ready to take steps. Therefore, considering the facts and circumstances of the case, as referred to hereinabove, the following directions shall meet with the ends of justice:

(i) The petitioner shall furnish details including the names of the persons and details of properties

against whom the recovery certificate is to be executed and the recovery is to be made and such details shall be furnished within a period of two weeks from today to the respondent No.1.

(ii) After such details are furnished by the petitioner, the DDO shall ensure and take steps for recovery of amount as early as possible preferably within a period of two months from the date of receipt of such details and the orders of this court.

6. It is clarified that if there is any prohibitory order against execution of the recovery certificate by any competent authority/court, the DDO shall not be required to recover the amount.

7. It is also clarified that it will be open to the respondent No.2 to pursue the proceedings for setting aside the exparte order in accordance with law and the present order shall not operate as bar to the labour court in passing appropriate orders in accordance with law.

8. Petition is disposed in terms of above directions. Rule is made absolute to the aforesaid extent. In the facts and circumstances, there shall be no costs. Liberty to apply in case of difficulty.

16.1.2004 (JAYANT PATEL,J)